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Rami Baly 2016NY035345

Appellate/Defense

2022 JUL -7 AM 10:14

V.

**Motion  
Certificate of Appealability**

Certificate of Appeals

Supreme Court of New York

Respondent/plaintiff

**APPELLANTS BRIEF**

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### BRIEF INTRODUCTION

I Rami Baly, I am filing ProSe, requesting a motion on an Order to Show cause for improper procedure in violating due process. Title 28(5)Sec 1654 U.S. Judiciary and Judicial Procedure, Code 1654 - Appearance Personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein.

Title. II. Rule (3) under FRCP argues damages by the trial courts and appellates courts obstruction of procedure. Title. II. Rule (16)(1)(A) grant that I provide Discovery and inspection. Within this complaint I prove that inadmissible evidence within the prosecuting arguments use of testimonial statements misapplied "accusatory instruments", which obstructed due process. Rule(16)(1)(B) the defendant's written recorded statement of which the attorney for the government knows -- or through due diligence.

### FACTS

The police officer Gene Ruda on June 13th, 2016, about 4:45 p.m, across the street from 426 W. 27th Drive, in the County of New York arrested Baly, for P.L. 245.00(a) and 245.01; exposure of private intimate parts of his or her body in a lewd manner and committed lewd acts in a public space. Officer Ruda, claims led to an arrest of Mr. Baly. On November 1, 2016, bench trial before Honorable Flecia Mannin, convicted defendant of P.L. 245.01 on both charges of public lewdness and in a lewd manner.

On March 2, 2017, Hon. Laurie Peterson sentenced three years of probation and other added restitutions, Baly, appealed the claims of the accusatory instrument was jurisdictionally defective, and the evidence at trial was insufficient to prove public lewdness, and that the charges were against the weight of the evidence. The case 2016NY035345 which commenced Feb 14th, 2017, was docketed for an appeal, after losing trial. The Legal-Aid Society appellant/defendant counsel Ronald Zapata, submitted a preliminary statement, on November 30th, 2021, and the issue was heard as an oral argument, on the of the appeals in January 2022, at the appellate term.

The appeal case commenced on January 11th, 2022. This appeal was to be heard late January early February.

The People of the State of New York, NY County Clerk's No. 570207/17 Rami Baly

Def/appellant 2016NY035345, decided by Felicia A. Mennin, J. at Trial; Laurie Peterson, J., at sentencing, rendered March 2nd, after a non-jury trial, convicting him of P.L. 240.65, public lewdness and exposure of a person, and imposing a sentence, conviction was affirmed. The Appeals Court, Edmead, P.J., Mcshan, Silvera, J.J.; upheld the conviction.

March 11th, 2022, the Legal-Aid Society, Ronald Zapata submitted the case in presentation to, the Hon. Rivera, who again upheld the ruling upon "statutory codes". A request for a rehearing of the affirmation by letter of Leave of Application was denied to be tried to analyze sufficiency of statements and facts weighed upon the evidence. The Leave of Application was filed to request examination, and denied. The Legal-Aid attorney Ronald Zapata recommends filing for Habeas Corpus.

A request for certification of appeal is requested. The certification of appeals is requested to request habeas corpus. Here I will show cause as to why this certificate should be granted.

As a proper hearing with ethical conduct, is to follow Rules that guide the Court through trials, to prevent misapplication of the law. When the rules are obstructed, an unfair verdict can appear, where the ideas within an argument can mislead the verdict. The rules of evidence formats protects defedants from hearsay, and other forms of misapplication that can be used to maliciously prosecute a defedant, or falsely imprison them.

Hearing a case for reasonable doubt to failry weigh the evidence, using tehe rules in line with the Due Process Clause under the fifth Amendment, and the Fourteenth Amendment, is so that failry prejudice and misapplication will not obstruct the material within a case for information[s] and idea[s]. Court Rules and Uniform Constitutional Laws, based upon inadmissible evidence, in which, when broken, grants application to be heard on the bases of facts and the law. In this issue, evidence is in violation in Due Process Clause, Fifth Amendment says to the federal government, that, no one shall be "deprived of life, liberty or property without due process of the law". The Fourteenth Amendment ratified in 1868, uses the same words, Due Process Clause to describe legal obligation of the states. (Legal Information Institute, Cornell Law) Rule 501 FCR Art.(5) Privilege, def. Common law interpreted by the United States Courts in light of reason and experience - governs a claim of privilege unless any of the following provides otherwise; the United States Constitution, a Federal Statute and rule prescribed by the Supreme Court. In this case, privilege; meaning the clients procedural rights under constitutional guidelines, which protect narrowly constructed rules, when obstructed, by actions which damage the case.

When using a statutory code to base a statement to pass as ethcially reach a rational decision, is a discretionary matter of law, wehereas ethcally reaching a rational decision undermines one's ethics as a practioner under the ABA standards. The standards are to guard the protection of the due process privelege as well as rights to a fair trial.

The access communication must itself, explicitly or implicitly, relate factual assertions or disclose information as only then are persons compelled to be witnesses against themselves. (Fisher v. United States 425 U.S. 391, 408, 96 S.ct. 1569, 48L. Ed. 2d 39 (1976). Under advocate witness rule, where a prosecuting attorney is to be called as a witness by defense and his testimony, will be adverse to people, he should be disqualified. (People v. Perry, 1985, 127 Misc. 2d 562, 486). This action is a form of self-incrimination, where the wordings change the idea[s] of the information[s] of the case and create prejudice over the matter. Evidence is testimonial or communicative when it reveals a person's "subjective knowledge" or thought processes. (Fisher v. United States, 425 U.S. 391, 403 (1976))

The use of substantial evidence, exculpatory evidence, used within cases involving capital crimes, require that proof beyond reasonable doubt is to be met, sufficiently. Using circumstantial evidence within Civil Cases as the nature and purpose of concluding a verdict under the conditions of procedure, are subject to facts, that must meet a qualification to be reliably sufficient.

In my argument I express to you a lack of duty of these actions, in the case The People of New York v. Rami Baly. The language used to uphold an appeals conviction for the trial, appeals process was obstructed. The procedure broke the defendant's Due Process, by wrongly reaching a verdict in this case. The District attorney counsel of the county of New York on "Rules Of Evidence", 60.50 statement of defendant; corroboration of a person, may not be convicted of any offense solely upon evidence of a confession or admission made by him without additional proof that the offense charged has been committed.

November 2 2021, submitted assistant District attorney's of counsel as respondent of the appellate Ramir Baly 2016NY0035345, as cross motion over Legal-Aid appellate/defense counsel Ronald Zapata presentation of Baly's November 2nd, 2016 appeal for a trial loss for the conviction of Penal Law 245.00(a) and 245.01 Public Lewdness, and exposure of a person.

The response argues that (BALY), on appeal, the defendant claims 1.) the accusatory instrument to be jurisdictionally defective because it failed to allege that he committed his conduct in a public place, and 2.) The evidence at trial sufficiently proved the public lewdness charge and the verdict on that charge as against the weight of evidence. On (RB: pg.2) of the brief explains the people involved in the trials statements and description of the locations and the descriptive incident which the statements and testimony provided. Though, clearly the identify of the circumstantial evidence appears to meet a validity test because the type of compliant it is and the rationality of the location, still reviewing the consistency upon this matter experienced a lack of duty. A fairly held trial reviews both sides of the story, for reasonable doubt to be met, and meet the privileges of a lawyer representing their clients and an arbitrator responsibility is to be in line in several ways as to not misconstrue the Fifth Amendments purpose of a fair trial.

28 USC 2072 a requirement from a local rule imposing a requirement of form, must not be enforced in a way that causes a party to lose any rights, because of a non willful failure to apply to comply. 1:1 Introduction Duties of Prosecutors, being a prosecutor is a public trust. The duty of a prosecutor is to seek justice, not merely to convict. While the prosecutor obviously should prosecute the guilty, the prosecutor should also protect the innocent from unjustified prosecutions. And, the proper role of the prosecutor requires that he or she simplify not obtain a conviction, but fairly obtain a conviction.

Ethical conduct is to represent a stand of care to uphold the right of the person by not omitting information[s] that can work in its favor rather than reach a fair conviction.

New York Criminal Procedure Law, section 60.45, in that it was obtained by a private person or public servant, by means of any promise or statement of fact, which promise or statement create[d] a substantial right that the defendant might falsely incriminate himself. The legislature is competent to declare a certain fact prima facie evidence of another fact to be established and this may be done without, in any manner impairing the right of jury trial; so long as the legislature, in prescribing rules of evidence, in either civil or criminal cases, leaves a party a fair opportunity to make his defense and to submit all the facts to the jury to be weighed by them, upon evidence legitimately bearing upon them. It is difficult to perceive how its acts can be assailed upon constitutional grounds. New York State Constitution Bill of Rights Art(1). Statute(2) Trial By Jury.

In addition to 28 USC 2072; Should findings from legal information be damaged, it would affect the obligation to diversity of procedural law. The same procedural law that protects the admissibility of evidence, applies to the Court's ability to inform and adjust issues, where misapplications affect a matter.

Within the brief the expression of these action were obtained without discretion to evidentiary rules. (RB: pg.4) whereas quoting the statements arrest and trial exhibits (51-55) of the transcript, the 911 calls, at the appeal level, is not to go over the whole conviction twice but to prove how the jurisdiction meets the appeals courts nature and scope. By arguing the jurisdiction was met by answering the defendant's brief for the sufficiency of the claims. The points along the argument were wordy as to be attacking the credibility of the defendant. The introduction of Point I of respondents presents that (BALY) claims that the complaint was factually insufficient because it did not allege sufficient facts to establish that he committed his conduct in a public place. (RB:p6.)



quoting the Appellants brief to claims that Legal-Aid, Zapata's argument lacked merit as supporting the statement. The rest of the argument were a dying declaration of Baly's action on; as to support that valid jurisdiction is sufficient to meet two conditions, to allege the facts of an evidentiary nature, and establishing reasonable doubt case to believe that the defendant committed the offense charged CPL 100.15(3) 100.4(1)(b) People v. Kalin, 72 N.Y.3d 725, 282 (2009)

Under advocate witness rule, where a prosecuting attorney is to be called as a witness by defense and his testimony, will be adverse to people, he should be disqualified. (People v. Perry, 1985, 127 Misc. 2d 562, 486).

The statute introduces the mind to assert that reasonable cause exists to evidence information to appear reliable to disclose facts or circumstances collectively of such weight and persuasive new to convince a person of ordinary intelligence, judgment and experience" that likely such offense was committed and that a person committed it.

I request Article 70 Special Proceeding, under Art.78 Habeas Corpus.

NY CPLR 506 Where special proceeding commenced (a) generally unless otherwise prescribed in subdivision (b) or in the law authorizing the proceeding, a special proceeding may be commenced in any county within the judicial district where the proceeding is triable.

(b) against body or officer, a proceeding against a body or officer shall be commenced in any county within the judicial district where the respondent made the determination complained of or refused to perform the duty specifically enjoined upon him by law, or where the proceedings were brought or taken in the course of which

the matter sought to be restricted originated, or where the material events others took place, or where the principal officer of the response is located.

(e) Answering affidavits, the body or office shall file with the answer a certified transcript of the record of the proceeding under consideration, unless such evidentiary facts as shall entitled him to a trial if any issue of act. The court may order the body or officer to supply any defect or omission in the answer k transcript or an answering affidavit. A Statements made in the answer, transcript or an answering affidavit are not conclusive upon the pteititooner, Should the body or officers fail either to file and serve an answer or to move to dismiss, the court may either issue a judgment factor of the petitioner or order that an answer be submitted.

(g) Hearing and determination, transfer to appellate division. Where the substantial evidence issues specific inquestion four of sect 7803, is not raised, the court in which the proceeding is commenced shell itself dispose of the issues in th proceeding. Where such an issue is raised, the court shall first dispose of such other objections as could terminate the proceeding, including but not limited to lack of jurisdiction, statute of limitations and resducicata, without reaching the substantial evidence issue. If the determination of the other objections does not terminate the proceeding, the court shall make an order directing that it be transferred to disposition to a term of the appellate division held within the judicial department embracing the current in which the proceeding was commenced. Where the proceeding comes before it, whether by appeal or transfer, the appellate division shall dispose of all issues in the proceeding, or, in the paper are insufficient, it may remit the proceedings.

In this argument I present to you that, Circumstantial evidence is indirect evidence that does not, on its face, prove a fact in issues but gives rise to a logical inference that the facts exist. Circumstantial evidence requires

drawing additional reasonable inferences in order to support the claim. Cornell Law School Circumstantial Evidence "[https://www.law.cornell.edu/wex/circumstantial\\_evidence](https://www.law.cornell.edu/wex/circumstantial_evidence), the claim is capable of ambiguous statements, different treatment, and other evidence can allow a jury to reasonably infer intentional discrimination. Board of Com'rs of Exercise of the City Arburn v. Merchant, 1886, 103 N.Y. 143, 8 N.E. 484. It was error of the Jury that liquor was seen to be drank on the premises, that is prima facie evidence that it was sold with intent that it was to be drank on the premise, citing; (People v. Lyon, 27 Hun, 180) While the legislature may establish the effect of certain evidence and shift the burden of proof from one party to another, and declare what may be presumptive evidence of certain facts, it has not the power to make the lawful act of one person presumptive evidence of the unlawful act of another without any proof of his knowledge, complicity of consent. The fact that it was a place of resort and that person went in sober and came out drunk is competent on the question of the sale of intoxicating liquors. (Abb. Trial Ev. 774, State v. Wentworth, 65 Me. 234)

The claim that the defendant's statement as proof that there was intention is not presumptive or circumstantial to the claim, but circumstantial in the event explaining argumentatively in comparison, by circumstance to contrast whether the allegation would be true if those are the circumstances between a public restroom and a plain view of the public to consider if the prosecutor meant public lewdness.

The respondent/defendants, readings expression, of the appeal Judge omitted reading the respondents appeal clearly, and review whether the informations were sufficiently applied (pg.12) the respondent/defense claims that the defendant contends the allegations to being in the doorway of a building in a park across the street from a particular address citing the defendant's brief (DB:17) and makes that the contention does not support it. I argue that reasonable doubt is not met based upon providing part of a statute and the use of argument to make involuntary-made statement to cause self-incrimination. It is a lack of duty and care that the appeal judge used

to uphold the conviction in this argument. The appellate judge reading the information[s] along with the conclusion upon the issue obstructed due process clause, by asserting inadmissible claims. The parallel construction of the argument supported the insufficient claims appeals conclusion which were erroneous and does not clearly meet being reliable to the statute because it fails to prove that it was sufficient.

Point I was insufficient. The appellate divisions instructions to why merit are legal by wording them in authority as to how, on (RB: pg. 14, 15, 16) does not meet the standards to claim that reasonable doubt was reliably weighed. In Point II, the respondent introduces meritless... as to be that the defendants evidence at trial was insufficient. Appeals here issue for the first time at the Scope of review by court of appeals of matters not presented to or decided by trial court or appellate division. Subject to certain exceptions, a question that was not presented to or decided by the trial court or the appellate division cannot be raised in the court of appeals for the first time, regardless of whether the objective is to affirm or to reverse the determination below. (Sand v. Garford Motor Trucks Co. 236) Stipulation not entered about two complaints, the courts request for a separate trial to be filed, the plaintiff's appeals was denied and based upon not entering stipulation for a second issue, because claim one was not inserted at the time of the complaint. The court of appeals has modified an appellate division by deleting a portion which purported to affirm a certain trial court order where the appellate division misstated the effects of the order it was affirming and, effectively, granted a party affirming and, effectively, granted a party affirmative relief which was not sought on appeal and was not before the appellate division.

The notion that the internal quotation marks omitted being that by authority stating courts should not be a fact finder is a logical premise, but when considering evidentiary inferences if the statement is not harmful, as in harmless, then it applies as a strong argument. Harmless as meaning does not hinder the case with or without the assertion. Therefore the use of the language and ideas where an effect of parallelism, whereas Ziegarnik Effect,

the wordings hand <sup>1</sup>in hand. Rule 702, A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (c) the testimony is the product of reliable principles and methods.<sup>2</sup>

It is claear and preponderane evidencce that the appeals judges dmead,P.J, Mcshan, Silvera, J.J; wrongly upheld the conviction on this case. The lack of duty to identtify that the respondents information reached the conclusion and not proving still whether the appeallate did commit the act, by fitting a conversation within the jurisdiction of, question of law and discretion, as a parallel with assertions of dying declarations created an argument of bad-faith outside the statndards of its Ethcial purpose and outside the appeals purpose, therefore the intent of this appeal procedure was vindictiveness and against the Fifth-Amendment's Due Process clause and poresent proof that involuntary made statements created self-incrimnatroy assertions that are insufficiency weighed to make a draum inference conclision not a, by adding the trial action of the defendant went againts what the standard o apply to , not convict the defent of the crime but to proves pg. 16 (claiming the authority of the same nature, prejudices which claims are the accusatory instruments. ... The attempts to prove the statute PL 245.00(c) Public Lewdness next to People v. Topy, 2002 N/Y. Slip Op 50106(v), 3 (App. Term 1st Dept. 2002) "....the defednats moved her hips in a sexy manner..." is parallel to making the idea[s] compaitible with eht charge and prejudices the inference, using authority. Pg. 17 As involuntary made statements, it is self-incrimination to claim that the defedant argues that ht eavidence may proved the intentionality explosed himself in public and that it failed to prove that he did so " in a lewd manner" as that he commtitted a lewd act"

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<sup>1</sup> Rule 702 Testimony by Expert Witness. Discovery is admissible if it proves to be reliable.

<sup>2</sup> Rule 52 - Harmless and Obvious Error(a) Harmless Error. Any error, defect, irregularity or variance that does not affect substantial rights must be disregarded.(b) Obvious Error. An obvious error or defect that affects substantial rights may be considered even though it was not brought to the court's attention.

in public” because the supposedly “committ<sup>3</sup>ed a lwed act only when he was in a bathroom behind a metal slab and not around other people” (DB: 17-18. For on, the claimis insufficient because its form a controlled question held in the preliminary part of the procedure. “The exclusionary rule is grounded in the Fourth Amendment in the Bill of Rights, and it is intended to protect citizens from illegal searches and seizures.<sup>[2]</sup> The exclusionary rule is also designed to provide a remedy and disincentive for criminal prosecution from prosecutors and police who illegally gather evidence in violation of the Fifth Amendment and its protection against self-incrimination. The exclusionary rule also protects against violations of the Sixth Amendment, which guarantees the right to counsel.”<sup>4</sup>

Due process was obstructed being that; The question of whether a declaration is spontaneous is a preliminary question to be determined by the trial judge, not the jury. In the situation where the victim from the time of the injury until the time of the statement, approximately six minutes, demonstrated that there was ample opportunity to reflect and to contrive, the statement implicating a person other than the defendant was properly held inadmissible. *People v. Marks*, 6 N.Y.2d 67, 188 N.Y.S.2d 465, 160 N.E.2d 26 Cert. denied, 363 U.S. 912, 4 L. Ed. 2d 620, 80 S. Ct. 662 (1959)

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<sup>3</sup> The Zeigarnik Effect is a psychological tendency to remember an interrupted task more than a completed task. Parallel Construction is where words show two or more word ideas as important.

<sup>4</sup> SUPPORT ARGUING EVIDENCE HEARSAY

RULE 801(c) 56F.R.D. 183, 293 When prosecutor,,, makes the claims with the theory argument, what occurs, are; assertion unable to be analyzed, due to an elimination of sincerity. The motivation, the nature of conduct is absence from the untested perception, memory and narration of the actor, wherein, no class of evidence is free from fabrication.

Rules of Professional Conduct Rule; 11:1 Introduction Duties of Prosecutors. Being a prosecutor is a public trust, the duty of a prosecutor is to seek justice, not merely to convict. While the prosecutor obviously should prosecute the guilty, the prosecutor should also protect the innocent from unjustified prosecutions. And, the proper role of the prosecutor requires that he or she simplify not obtain a conviction, but fairly obtain a conviction. *People v. Paperno*, 1981, 54 N.Y.2d 294, 455 N.Y.S.2d 119, 429

Hearsay rules. 12:13 a statement concerning "any opinion as to the guilt or innocence of a defendant or suspect" is prohibited.

Evidence is testimonial or communicative when it reveals a person's "subjective knowledge" or thought processes. (*Fisher v. United States*, 425 U.S. 391, 403 (1976))

## CONCLUSION

The use of statutory claims from the arrangements and trial, were used to determine the decision, instead of the "nature and scope", which the Courts of Appeals and the Appellate Division based hearing upon, issue which discuss a question of law. The procedure was obstructed in both the appellate trials. The process of this precedence exhausted all the remedies to review the case. The case requires Habeas Corpus, because it maliciously prosecutes the defendant and falsely imprisons a defendant. 7801(1) finality and exhaustion to version convert over the potentially leather prematurity to overshadow choice over the potential dismissal for prematurity to overshadow convert over the potentially lethal time-bar of the four-month statute of limitations imposed by CPPLR 217. 780-1 becomes a binding petition, those wishing to do may not do so until they have exhausted their administrative remedies, but once this point has been reached, they minus ca quickly. *Watergate Apartments v. BuffaloSwor Auth.* 1978, 46 N.Y.2d 52, 57

Within the letter of Leave of Application to Hon Rivera, inter alia, on summation for request appeal, argues to clarify that the information in contrast to the conviction for a guilty verdict, the complaint testified onto the appellant that the accusatory instrument did not hold as sufficient to weighed evidence. The appellee/defendant, counsel Ronald Zapata, argued to the appellate division, that, parts of the assertions were obstructed, being that, the "prosecutions were not required to prove that he 'intentionally' committed the act, but that, the appellate term required that the prosecution was only required to prove the appellant committed an act." The appeals upon addressing this issue, were compelled to judge the case based on the Statutory Claims matching its reliability to the statements.

The lack of duty on this case were present through the entire precedence. This precedence damaged the other... Courts of Appeals--Criminal Law "Appeal" 3:31 Weight and sufficiency of evidence in general. An intermediate appellate court, with both fact and law jurisdiction, may review both the weight and sufficiency of the evidence. In a non-capital case, the Court of Appeals, with only law jurisdiction, will not assess the credibility of witnesses or disturb findings of fact which are based on conflicting testimony unless those findings are unsupported as a matter of law. Thus, in a non-capital case, the Court of Appeals may not review the weight of the evidence; the court may only review sufficiency of the evidence. In a capital case, the Court of Appeal has to be fact and law jurisdiction. *People v. Cuerullo*, 18, N.Y.2d 839, 275 N.Y.S.2d 845, 222 N.E.2d 605. The standard of care on this matter is discretionary and needs to be reviewed.

The court in *People v. Mackell* 40 N.Y.2d 59, held that, under N.Y. Crim. Proc. Law 450.90(2), in reviewing decisions of intermediate appellate courts, the court was not entitled to review the underlying merits to determine whether the evidence was legally insufficient to support respondents' conviction. They were entered



to review only the legality of intermediate appellate courts corrective action. Since mandated by N.Y. Crim. Proc. Law 470.20(2), that when evidence failed to establish prima facie case the accusatory instrument must be dismissed, the order so<sup>5</sup> discretion was legal and must be affirmed. All together this case held not weighed to be tried. Statements which are fruits of a illegal arrest must be suppressed. People v. Rodriguez, 11 N.Y.2d 279, 229 N.Y.S.2d 353, 183 N.E.2d 892, 581 N.Y.S.2d 649, 590 N.E.2d 234 (1992)

Admissions which were the product of the defendants's having ben confronted with illegally seized evidence must be suppressed. People v Hendricks, 25 N.Y.2d 129, 303 N.Y.S.2d 33, 250 N.E.2d 323 (1969) ( pg. 21 proves that there is clear and convincing that the procedudre was obstructed, by not holding to the standards of the purpose of Ethcial conduct, the hearsay and the use of paralell le stateue to mett the jurisdiction of natute and scorp to prejudice being a dying deceleation of bad-faith to the defendant making.

7803(1) the body officers failed to to perform a duty enjoined by law--corresponds with mandamus to compel. (2) whether a body officer has proceeded, is proceeding or is about to proceed without or in excess of jurisdiction-- is a restatement of prohibition. (3) actually contain multiple grounds that certiorari or mandamus to review, or both, depending on the circumstances, whether a determination was made in violation of lawful procedure,was affected by an error or law or was arbitrary and capricious or an abuse of discretion.

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<sup>5</sup> Rule 901 Authenticating or Identifying Evidence (1) Testimony that an item is what to be claimed. (2) non expert options, based on familiarity with it that was not acquired for the current litigation. An original is not required if all the originals are lost or destroyed, and not by the proponent acting in bad faith. Each statement made for the purpose of diagnosis or treatment, and hence each link in the change falls under sufficient assurances, or further illustrate, a dying declaration may incorporate declaration against interest by another declarant. Rule 805 Hearsay within Hearsay.

The certificate of appealability should grant the case Habeas Corpus to be reviewed for proper appeal, and for such other, further, or different relief as this court may deem just and proper.

## CERTIFICATE OF COMPLIANCE

This document complies with 22 NYCRR 130-1.1a under sec. 500.10 and 500.11 of this part. Motions papers, records and appendices.

(J) Papers filed prepared by word-processing systems. Papers prepared by a word-processing systems shall be printed in either a serified proportionally spaced typeface, such as Times New Roman, or a serified monospaced typeface, such as Courier. Narrow or condensed typefaces and condensed font space shall not be used. Except in heading, words shall not be bold type or type consisting of all capital letters.

- (1) Papers filed using a proportionally spaced typeface. The body of any papers filed using a proportionally spaced typeface shall be printed in 14-point type. Footnotes shall be printed of no less than 12 points.
- (2) Papers filed using monospaced typeface. The body of any papers filed using a monospaced typeface shall be printed in 12-point type containing no more than 10.5 character per inch. Footnotes shall be printed in type of no less than 10.

### Type-Volume

19-Pages  
4777-words  
28,900-Character

### Type-Style

Font- EB Garamond  
Size-11

Pro Se  
Rami Baly

July 5th, 2022

## **Annotated**

### **Primary Sources**

28 USC 2072

New York State Constitution Bill of Rights Art(1). Statute(2) Trial By Jury.

Title 28(5)Sec 1654 U.S. Judiciary and Judicial Procedure, Code 1654

Title. II. Rule (3) under FRCP

Title. II. Rule (16)(1)(A)

Rule(16)(1)(B)

Article 70 Special Proceeding

Art.78 Habeas Corpus

7801(1)

CPPLR 217. 780-1

7803(1

NY CPLR 506

N.Y. Crim. Proc. Law 450.90(2)

### **Secondary Sources**

P.L. 245.00(a) and 245.01;

Rule 501 FCR Art.(5)

“Rules Of Evidence”, 60.50

CPL 100.15(3) 100.4(1)(b)

Rule 702 Testimony by Expert Witness

Rule 52 - Harmless and Obvious Error(a) Harmless Error

Rules of Professional Conduct Rule; 11:1 Introduction Duties of Prosecutor

3:31 Weight and sufficiency of evidence

Hearsay rules. 12:13

#### Citations

Fisher v. United States 425 U.S. 391, 408, 96 S.ct. 1569, 48 L. Ed. 2d 39 (1976)

People v. Perry, 1985, 127 Misc. 2d 562, 486)

People v. Kalin, 72 N.Y.3d 725, 282 (2009)

Board of Com'rs of Exercise of the City Arburn v. Merchant, 1886, 103 N.Y. 143, 8 N.E. 484

People v. Lyon, 27 Hun, 180

Abb. Trial Ev. 774, State v. Wentworth, 65 Me. 234

Sand v. Garford Motor Trucks Co. 236

People v. Topy, 2002 N.Y. Slip Op 50106(v), 3 (App. Term 1st Dept. 2002

People v. Marks, 6 N.Y.2d 67, 188 N.Y.S.2d 465, 160 N.E.2d 26 Cert. denied, 363 U.S. 912, 4 L. Ed. 2d 620, 80

S. Ct. 662 (1959)

People v. Paperno, 1981, 54 N.Y.2d 294, 455 N.Y.S.2d 119, 429

Watergate Apartments v. BuffaloSwr Auth. 1978, 46 N.Y.2d 52, 57

People v. Cuerullo, 18, N.Y.2d 839, 275 N.Y.S.2d 845, 222 N.E.2d 605

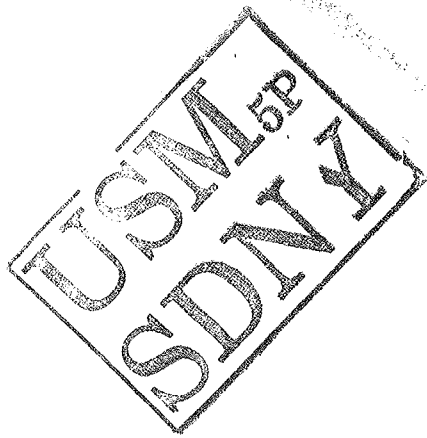
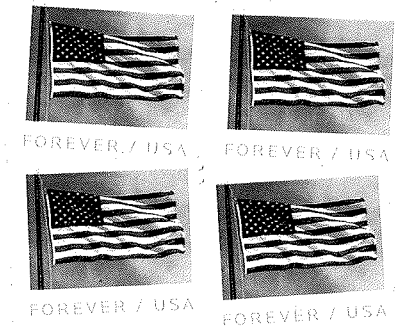
People v. Mackell 40 N.Y.2d 59

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(1992)

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